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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,204	04/12/2004	Carla Renae Briggs		2366

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THE INVENTORS NETWORK, INC.
332 ACADEMY STREET
CARNEGIE, PA 15106

EXAMINER

REICHLER, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/822,204	Applicant(s) BRIGGS, CARLA RENAE	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Drawings

1. The drawings were received on 11-16-05. These drawings are not approved.

Figure 2 does not show the end adjacent 14 accurately, i.e. the lip of the remainder of the container which is adjacent the free end of 16 when 16 is closed is not clearly shown. The structure 40 is not denoted in Figure 4. Where is the support in the specification, as originally filed, for the structure, i.e. the black spiral line, now denoted 40 in Figure 3 being the portion of the body of the container which is peelable?

2. The drawings are objected to because Figure 2, a cross-section of Figure 1, does not show 16 as shown in Figure 1. In Figures 3-4, where is the element 40 set forth on page 6, line 4? Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. Claims 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Positive structural antecedent bases for “the cylindrical portion” on line 8 and “the feminine protection pad” on lines 17 and 18 should be defined. Also is the pad on line 18 the same as the used item as set forth on line 12 or the stored item as set forth on line 12? Note the sentence bridging pages 2-3 of the instant specification.

Claim Language Interpretation

4. The terminology “lightweight” is considered relative absent claiming specific dimensions thereof. The terminology “of a...waterproof material” is interpreted to require a container of waterproof material but not a sealed enclosure. “A feminine protection item” will be interpreted as including the items set forth on page 4, line 20-21. Due to the lack of antecedent basis, see discussion in paragraph 3 supra, the pad on lines 17-18 will be interpreted as the item on line 6. Also, due to the lack of antecedent basis, see discussion in paragraph 3 supra, the “cylindrical portion” will be interpreted as the container on line 4. “Commensurate” is defined by the dictionary as “corresponding in size or degree, proportionate”. It is noted that the container as disclosed by the

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specification has ends which have a thickness and the length of the interior chamber is between the ends, i.e. the length of the chamber is not the same as that of the container. “A peelable portion” or “peelable portion of the container capable of being peeled back” will be considered any portion of the container which can be pulled or peeled from another portion of the container. See the paragraph bridging pages 5-6 of the instant specification. It is also noted that “peel” is defined by the dictionary as “to strip away, pull off”. It is noted that the direction “back” has not been defined with regard to any specific structure in the claim. Due to the lack of clarity set forth in paragraph supra, the pad on line 18 will be interpreted as either the used or stored item. It is noted that the preamble and lines 6-7, 8-9, 10-13, 14-15 and 16-19 of claim 10 and lines 2-3 of claim 11 recite properties, functions or capabilities of the structure set forth in those claims.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher PCT ‘878.

See Claim Language Interpretation section supra, Figures 20-21, page 2, last paragraph, the paragraph bridging pages 15-16, page 18, second full paragraph, the paragraph bridging pages 18-19, page 34, line 1-page 35, line 2, page 37, line 5-page 38, line 21, page 41, lines 28-29, page 42, first and second full paragraphs, page 43, second full paragraph, page 45, first and third paragraphs, page 46, last full paragraph, and page 47, first two full paragraphs, e.g. the ‘878 reference teaches a cylindrical container, see

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Figures 20-21, of “lightweight”, as noted supra the terminology “lightweight” is considered relative, film or liquid and vapor impervious overwrap, i.e. waterproof material, including opposed closed ends 116 and an interior chamber which has a length which extends between such ends of the container, see Figures 20-21, the first full paragraph on page 47, and the Claim Language Interpretation section supra, i.e. chamber is “commensurate” in length with the container, and a portion, e.g. the releasable seal, i.e. openable seal, at the sides 114 or/and ends 116, see cited portions of page 47, for use in opening, i.e. allowing access to, the container, see again cited portions of page 37 and 38 and Claim Language Interpretation section supra, i.e. the container is accessed because a portion thereof, e.g. the seal, is released or opened, e.g. pulled or peeled or striped from the another portion of the container, a tampon, i.e. a feminine protection item, is stored within the chamber of the container, a wipe 80 enclosed within a wrapping, see last full paragraph on page 46 and the first full paragraph on page 42, is contained within the chamber of the container, see Figure 21 in which 80 is wrapped around the tampon, and compare to Figures 3-4 of the instant application. The wipe can include a perfume or scent, see page 35, line 2. The package is intended to be used to dispose of used items, see the cited portion of page 2. Therefore, it is the Examiner’s position that Fisher ‘878 at the very least teaches all the structure claimed in claims 10-11. Furthermore, even if the properties, capabilities and functions of such structure, see Claim Language Interpretation sections supra, are not explicitly disclosed, there is sufficient factual evidence for one to conclude that such same structure would inherently also include the same functions, capabilities and properties as that of the claimed structure, see MPEP 2112.01.

Response to Arguments

7. Applicant's remarks with respect to matters of form have been considered but are deemed not persuasive for the reasons set forth supra. Applicant's remarks with respect to Steiger are moot. Applicant's remarks with respect to Fischer have been considered but are deemed not persuasive because they are narrower than the clam language and/or teachings of the prior art. The Fischer reference clearly teaches a portion of the container, e.g. a releasable seal which opens the container, i.e. a portion which can be pulled, peeled or striped from another portion, i.e. a peelable portion as claimed. It is noted that the claims do not limit such portion to any particular portion of the container. It is further noted that the reference also discloses, e.g. at page 38, line 21, that the container material of Fischer can be torn, i.e. is tearable.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

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advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the addition of claims 10-11.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
February 13, 2006